IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

Crl.MC.No. 3132 of 2007()

CC.1742/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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PETITIONER: DEFACTO COMPLAINANT/CW 1

K.CHANDRAN, S/O. KUNJU PILLAI,
POLACHIRA KIZHAKKETHIL, RESIDENCY ROAD,
KOLLAM.

BY ADV. SRI.B.BALRAJ
SRI.SAJJU.S
SRI. K.SHAJ

RESPONDENTS: COMPLAINANT/STATE

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
KOLLAM EAST POLICE STATION.

3. THE SUB INSPECTOR OF POLICE,
KOLLAM EAST POLICE STATION.

4. ANIL KUMAR @ VAVACHI,
POLACHIRA VADAKKATHIL, HOUSE NO.IX,
RESIDENCY ROAD, KOLLAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3132 of 2007

Dated this the 11th day of October, 2007

O R D E R

The petitioner had filed Annexure-A1 private complaint. The same was referred to the police. The crime was registered. Investigation was conducted. Annexures- A2 series are statements recorded of the witnesses. Final report was filed. Cognizance was taken. The petitioner obtained copies of Annexure-A2. He realised that no proper investigation has been conducted. He hence made Annexure-A4 complaint before the Superintendent of Police. The Superintendent of Police appears to have ordered some enquiry. In that enquiry, Annexure-A5 statements of the witness were recorded. Annexure-A5 statements, according to the petitioner, are the true statements and Annexure A2 statements are not. He has a further grievance that Annexure-A3 test certificate secured by him was not even adverted to by the Investigating Officer. Though the enquiry was conducted and Annexures-A4 and A5 statements were recorded, no proper formal further investigation was conducted. So much so that the final report originally filed is continuing to remain. The petitioner's grievance is that a further investigation must have been conducted. The same has not been done. He therefore filed Annexure-A6 petition ie.Crl.M.P.7614 of 2007 before the Judicial Magistrate of the First Class-II, Kollam with a prayer that further investigation may be ordered in the light of the developments referred above. His grievance is that the

learned Magistrate has not disposed of Annexure-A6. In Annexure-A6 petition, the learned Magistrate, it is submitted, has ordered notice to the officers who recorded Annexures-A2 & A5 statements. It is at that stage, the petitioner has rushed to this Court.

2. I find absolutely no justification in the present prayer made by the petitioner. The learned Magistrate is seized of Annexure-A6 petition. The learned Magistrate is admittedly enquiring into that. The petitioner must wait for the order in Annexure-A6 petition. If he is aggrieved by the order to be passed, needless to say, avenues of challenge will be available to him. But at the moment when the learned Magistrate is seized of the petition and is considering the same, the petitioner can have no grievance to justify the prayer for invocation of the jurisdiction under Section 482 Cr.P.C.

3. In these circumstances, this Crl.M.C is, dismissed, but with the above observations. I make it clear that I expect the learned Magistrate to dispose of Annexure-A6 petition as expeditiously as possible. The dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to challenge the orders which shall be passed by the learned Magistrate in Annexure-A6 petition.

(R.BASANT, JUDGE)

rtr/-